



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 26, 2005

Mr. John T. Patterson  
Assistant City Attorney  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2005-04628

Dear Mr. Patterson:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 224903.

The Waco Police Department (the "department") received a request for information relating to a specified case number. You inform us that the department will release some of the requested information. You seek to withhold the rest of the requested information under section 550.065 of the Transportation Code and section 552.130 of the Government Code. We have considered your arguments and have reviewed the information you submitted.

You assert that section 550.065 of the Transportation Code is applicable to the submitted Texas peace officer's accident report. Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. The Seventy-seventh Legislature amended section 550.065(c)(4) to provide for the release of an accident report to a person who provides two of the following three pieces of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See* Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the three items of information specified by section 550.065(c)(4). *Id.* In this instance, the requestor has provided two of the three specified items of information. Accordingly, the department must release the accident report under section 550.065(b) of the Transportation Code.

Section 552.130 of the Government Code excepts from disclosure information that relates to “a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a)(2). You seek to withhold Texas motor vehicle information under this exception. We note, however, that the driver of the vehicle in question is deceased. Section 552.130 protects personal privacy interests, and privacy is a personal right that lapses at death. See *Moore v. Charles B. Pierce Film Enters. Inc.*, 589 S.W.2d 489 (Tex. Civ. App.—Texarkana 1979, writ rec’d. n.r.e.); *Justice v. Belo Broadcasting Corp.*, 472 F. Supp. 145 (N.D. Tex. 1979); Attorney General Opinions JM-229 (1984); H-917 (1976); Open Records Decision No. 272 (1981). Thus, the Texas motor vehicle information that you have highlighted is excepted from public disclosure under section 552.130 only if a living individual owns an interest in the vehicle.<sup>1</sup> Otherwise, the department may not withhold the vehicle information under section 552.130.

In summary: (1) the department must release the peace officer’s accident report under section 550.065 of the Transportation Code; and (2) the Texas motor vehicle information must be withheld from the public under section 552.130 if a living individual owns an interest in the vehicle.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

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<sup>1</sup>We also note that the requestor would have a special right of access to the vehicle information if she owns an interest in the vehicle. See Gov’t Code § 552.023(a). Should the requestor have a right of access, the department may not withhold the vehicle information from her under section 552.130. See Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).

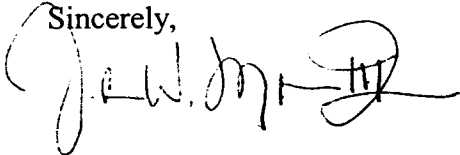
Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read 'J.W. Morris III', with a stylized flourish at the end.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/sdk

Ref: ID# 224903

Enc: Submitted documents

c: Ms. Tammy Elston  
2100 Park Avenue  
Waco, Texas 76706  
(w/o enclosures)